

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

v.

BRENDA HARMON,

Defendant.

8:18CR136

ORDER

This matter is before the Court on defendant Brenda Harmon’s (“Harmon”) Motion for Compassionate Release (Filing No. 48) under 18 U.S.C. § 3582(c)(1)(A). That statute authorizes Harmon to move the Court to “reduce [her] term of imprisonment” for “extraordinary and compelling reasons” thirty days after asking the warden of the facility where she is incarcerated to file such a motion on her behalf. *See United States v. Raia*, 954 F.3d 594, 595 (3d Cir. 2020). Harmon states she satisfied that requirement by making such a request on October 5, 2020.

The Court’s initial review of Harmon’s motion indicates she has potentially raised a colorable claim for sentencing relief under § 3582(c)(1)(A)(i). Accordingly,

IT IS ORDERED:

1. The U.S. Probation and Pretrial Services Office is directed to investigate Harmon’s request for sentencing relief and promptly file under seal a report summarizing the results of that investigation.
2. If necessary, the probation office is authorized to disclose Presentence Investigation Reports to Harmon’s counsel and the United States Attorney for the purpose of evaluating the motion. Harmon’s counsel shall provide the Presentence Investigation Report to any subsequently appointed or retained counsel. In accordance with the policy of the Federal Bureau of Prisons, no Presentence Investigation Report shall be provided to inmates.
3. The government and Harmon’s counsel shall each file within ten days of the probation office filing its investigation report a brief addressing Harmon’s

request for sentencing relief and provide any evidence necessary for the Court's disposition of his motion. In particular, the parties should address whether § 3582(c)(1)(A)(i) authorizes the Court to reduce a sentence below a statutory mandatory-minimum sentence. *See, e.g., United States v. Burnett*, No. 8:17CR374, 2020 WL 5038777, at *2 (D. Neb. Aug. 26, 2020) (citing *United States v. Watts*, 553 F.3d 603, 604 (8th Cir. 2009) (per curiam) ("District courts lack the authority to reduce sentences below congressionally-mandated statutory minimums.")). Absent an extension or other request from the parties, the motion shall be deemed fully briefed and submitted as of that date.

Dated this 3rd day of December 2020.

BY THE COURT:

Robert F. Rossiter, Jr.
United States District Judge